

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JOSEPH KENNETH COLONE, JR.                   §  
VS.   §                   CIVIL ACTION NO. 1:07-CV-275  
UNITED STATES OF AMERICA                   §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Joseph Kenneth Colone, Jr., a prisoner confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, filed this civil action against the United States of America.<sup>1</sup>

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the case without prejudice for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.


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<sup>1</sup> The plaintiff sought relief under 28 U.S.C. § 2241. Because plaintiff requested the return of his property, the case was construed as a civil action brought pursuant to 28 U.S.C. § 1331. See *Clymore v. United States*, 217 F.3d 370, 373 (5th Cir. 2004).

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

**SIGNED** this the **26** day of **November, 2007**.

  
Thad Heartfield  
United States District Judge